

Explainer: USCIS Memo on TPS Holders' Access to Adjustment of Status

On July 1, U.S. Citizenship and Immigration Services (USCIS) released a memo titled [“Rescission of *Matter of Z-R-Z-C* as an Adopted Decision; agency interpretation of authorized travel by TPS beneficiaries.”](#)

The memo provides certain previously excluded Temporary Protected Status (TPS) holders with eligibility to adjust to permanent status and obtain green cards. Specifically, the memo interprets TPS holders who return from authorized travel abroad as being lawfully “inspected and admitted,” satisfying a key eligibility requirement for adjusting status. The memo also establishes a new process and form for authorizing travel for TPS holders.

Background

What is TPS?

[Temporary Protected Status](#) (TPS) was created by Congress via the [Immigration Act of 1990](#), which allows that “the [Secretary of Homeland Security](#) may designate a foreign country for TPS due to conditions in the country that temporarily prevent the country’s nationals from returning safely, or in certain circumstances, where the country is unable to handle the return of its nationals adequately.” Reasons for designation include ongoing armed conflict, natural disasters, or other extraordinary circumstances.

Once the Secretary designates a country for TPS, nationals of that country who are already in the U.S. and meet eligibility criteria may apply through U.S. Citizenship and Immigration Services (USCIS). The following countries are currently [designated](#) for TPS: Afghanistan, Burma (Myanmar), Cameroon, El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, Ukraine, Venezuela, and Yemen. There are approximately 350,000 TPS beneficiaries currently living in the U.S., and [more than 500,000](#) who are eligible for TPS protections.

Benefits of TPS

TPS [recipients](#) are protected against deportation and are not removable from the U.S. for the duration of their status. They can also obtain a valid work permit, a valid social security number, and they cannot be detained for immigration purposes. TPS in and of itself does not create a pathway to permanent status.

Traveling with TPS

TPS holders are able to apply for permission from USCIS to travel abroad, typically under a process called “advanced parole.” TPS holders are [often granted](#) authorization to travel from USCIS without needing to specify their reason for travel.

Eligibility to Adjust Status

If they are otherwise eligible, TPS holders can apply for a green card and adjust from their temporary status to lawful permanent residence (LPR) status. Like other prospective immigrants, TPS holders can adjust status through family-based or employment based green card categories.

To be eligible for a green card, TPS holders must be considered “inspected and admitted” or “paroled” by USCIS. In the 2020 case [Sanchez v. Mayorkas](#), the Supreme Court held that obtaining status through TPS is not enough on its own to establish that an individual has been “inspected and admitted.” As a result, individuals who have TPS who initially entered the country without inspection do not meet the prerequisite criteria of having been “inspected and admitted” for green card eligibility. However, the Supreme Court did not rule on whether TPS holders who have re-entered the country after traveling under advanced parole are considered “inspected and admitted” or “paroled” for the purposes of adjustment of status. Prior to August 2020, it was [common practice](#) that TPS holders who traveled out of the U.S. on advanced parole and re-entered the U.S. were considered inspected and paroled and were therefore eligible to adjust their status to that of a permanent resident if they had an underlying successful petition and met all other criteria.

However, in an [August 2020 memorandum](#), the Trump administration adopted an Administrative Appeals Office (AAO) decision (*Matter of Z-R-Z-C*) that held that TPS holders arriving under advanced parole should not be considered admitted or “paroled” for the purposes of adjustment of status. Further, in March 2022 the Fifth Circuit Court ruled in [Duarte v. Mayorkas](#) that TPS holders are not eligible for advanced parole in the first place, arguing that according to statute they must be “admitted in the same immigration status [they] had at the time of departure.” The decision did not preclude TPS holders from traveling, but argued that USCIS erred in referring to their travel as advanced parole.

It is in this context that USCIS issued the July 1 memo, which clarifies the Biden administration’s position on TPS holders eligibility to adjust status in light of the recent court decisions.

What does the July 1 memo do?

- 1. The memo clarifies that TPS holders who return from authorized travel may be considered inspected and admitted for the purposes of green card eligibility.** The memo changes USCIS policy so that, from this point forward, when TPS holders return after a period of authorized travel they will be considered “inspected and admitted” for adjustment of status purposes. This means that TPS holders who first entered the country without authorization can still obtain eligibility to adjust status by returning at a port of entry after a period of authorized travel.
- 2. The memo creates a new mechanism for authorizing travel for TPS holders that is not advanced parole.** In *Duarte v. Mayorkas*, the court argues that advanced parole cannot be used to authorize travel (or return) of TPS holders. The memo establishes a new travel authorization process and document for TPS holders that is separate from advanced parole. The new document will be Form 512T, Authorization for Travel by a Noncitizen to the United States. Those who return at ports of entry under the new authorized travel process will be considered inspected and admitted for the purposes of green card applications.
- 3. The memo establishes the scope of the policy changes and describes which TPS holders will be impacted.** The guidance only applies to TPS holders who obtained advanced authorization for their travel from USCIS, whose TPS is valid for the duration of the travel, who were inspected upon their return at a port of entry, and who returned to the U.S. on the basis of their TPS-based travel authorization. USCIS will

apply this guidance to those who traveled prior to the implementation of the memo on a case-by-case basis.

Conclusion

Thousands of TPS holders have been living in limbo years without any path to a green card or permanent status. While on TPS they have been able to work lawfully, pay taxes, and build lives in the U.S., often alongside U.S. citizen family members. Many would otherwise be eligible for a green card if they met the “inspected and admitted” requirement.

The July 1 memo responds to the recent decisions in the Supreme Court and the Fifth Circuit and provides a path to permanency for many TPS holders by allowing return from authorized travel to satisfy the “inspected and admitted” eligibility requirement.

The National Immigration Forum would like to thank Jane Changyue Yin, Policy Intern, for her extensive contributions to this explainer.